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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/727,046	11/30/2000	Norihito Fujita	P/2238-25	2977
7590	03/29/2005		EXAMINER	
STEVEN I WEISBURD ESQ DICHSTEIN SHAPIRO MORIN & OSHINSKY LLP 1177 AVENUE OF THE AMERICAS 41ST FLOOR NEW YORK, NY 10036-2714			CHO, HONG SOL	
			ART UNIT	PAPER NUMBER
			2662	

DATE MAILED: 03/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/727,046	FUJITA, NORIHITO	
	Examiner	Art Unit	
	Hong Cho	2662	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 01 February 2005.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 6,7,15-19 and 23-28 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 6,7,15-19 and 23-28 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 30 November 2000 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

DETAILED ACTION

Response to Amendment

1. This office action is in response to the amendment filed on 2/1/05. Claims 6, 7, 15-19 and 23-28 are pending in the instant application.

Drawings

2. New corrected drawings are required in this application because legends are not complete for figures 1, 4, 5, 8 and 9. Applicant is advised to employ the services of a competent patent draftsperson outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Specification

3. The disclosure is objected to because a format is not adequate for proper reading.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102(e) that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for

purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 7, 15, 16, 18, 19 and 23-27 are rejected under 35 U.S.C. 102(e) as being unpatentable over Ma et al (U.S 5953338), hereinafter referred to as Ma.

Re claims 15 and 24, Ma discloses ATM network having centralized control module comprised of call control module and bandwidth manager module connected to multiple customer networks to manage calls for virtual private network (*a node which consolidates communications connections in a connection-oriented network*, figure 1b, element 160). Ma discloses determining whether a new virtual connection over existing virtual path can be connected through a particular ATM edge switch having interfaces needed to interact with various clients (*determining whether a tunneling communication connection is present both in a first route of an existing communication connection and in a second route of a second communication connection, wherein said first and second routes have different destination nodes in said connection-oriented network*, abstract; figure 1a). Ma discloses updating an amount of available bandwidth for the virtual path after allowing a new virtual connection into existing virtual path (*modifying a parameter of tunneling communication connection to accommodate merging second communication connection in tunneling communication connection and merging existing communication connection and second communication connection on tunneling communication connection*, column 6, lines 10-14; lines 50-53).

Re claims 16 and 25, Ma discloses existing communications connection being a virtual path (*a tunneling communication connection*, column 8, lines 65-66),

Re claims 7 and 18, Ma discloses connection-oriented network being an ATM network, communication connection being a virtual channel, tunneling communication connection being a virtual path and a node being an ATM switch (figures 3 and 7b).

Re claims 19 and 23, Ma discloses managing and accommodating different traffic service requirements of a virtual path to allow a virtual connection to be setup (*creating a tunneling communication connection capable of accommodating existing communication connection, wherein tunneling communication connection is in said first route and second route*, column 7, lines 3-8).

Re claims 26 and 27, Ma discloses creating a new virtual connection when a new communication connection is requested, wherein third and fourth nodes are in first route and second route (figure 10, column 13, lines 18-32).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 2662

7. Claims 6 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ma in view of Fredette et al (U.S 6697361), hereinafter referred to as Fredette.

Re claims 6 and 17, Ma does not disclose connection-oriented network being a multi-protocol label switching (MPLS) network, communication connection being a label switched path and a node being a label switching router. Fredette discloses connection-oriented network being a multi-protocol label switching (MPLS) network (figure 2a, element 210), communication connection being a label switched path and a node being a label switching router (figure 2a, element 218; column 6, lines 1-7). MPLS and ATM network are interchangeable because label information can be carried in the ATM header, specifically in the VPI and VCI fields. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Ma to perform aggregation of communication connections in a MPLS network environment of Fredette. The motivation is to integrate network layer routing with a label swapping used by the link layer so that MPLS can provide network scalability and flexibility of routing with performance and traffic management of layer 2 switching.

Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ma in view of Tappan (U.S 5991300).

Re claim 28, Ma does not disclose stacking a label assigned for the tunneling communication connection in a shim header. Tappan discloses stacking a label assigned for the tunneling communication connection in a shim header (figure 5). It would have

been obvious to one having ordinary skill in the art at the time the invention was made to modify Ma to use an assigned label, indicating a tunnel communication connection, as a way to route or switch packets. The motivation is to integrate network layer routing with a label swapping used by the link layer so that MPLS can provide network scalability and flexibility of routing with performance and traffic management of layer 2 switching.

Response to Arguments

8. Applicant's arguments with respect to claims 6, 7, 15-19 and 23-28 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. This is an RCE of applicant's earlier Application No. 09727046. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application.
10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
 - US Patent (6366129) to Ise et al
 - US Patent (6148000) to Feldman et al
 - US Patent (6243381) to Cai et al

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hong Cho whose telephone number is 571-272-3087.

The examiner can normally be reached on Mon-Fri during 7 am to 4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hassan Kizou can be reached on 571-272-3088. The fax phone number for the organization where this application or proceeding is assigned is 571-273-3088.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

hc
Hong Cho
Patent Examiner
3-23-2005



JOHN PEZZLO
PRIMARY EXAMINER